

Court of Appeals, State of Michigan

ORDER

People of MI v Jesse Daniel Rae

Docket No. 289316

LC No. 07-007333-FH

Deborah A. Servitto
Presiding Judge

Mark J. Cavanagh

Kathleen Jansen
Judges

The Court orders pursuant to MCR 7.205(D)(2) that the September 7, 2008 amended judgment of sentence and commitment to department of corrections is VACATED and this matter is REMANDED FOR CORRECTION OF DEFENDANT'S SENTENCING INFORMATION REPORT AND RESENTENCING. At the January 28, 2008 hearing regarding defendant's original sentencing, the sentencing court accepted defendant's challenges to the calculations of the scores for offense variables 3 and 10. The sentencing judge sentenced defendant in light of the change in his guidelines calculation that resulted from the change in his score. However, that change was not reflected in defendant's sentencing information report. When sentencing defendant on his probation violation plea, the sentencing court erroneously sentenced defendant based on the incorrectly calculated guidelines range. Thus, resentencing is required. *People v Underwood*, 278 Mich App 334, 337; 750 NW2d 612 (2008).

The trial court is directed to correct defendant's sentencing information report and resentence defendant within 45 days of the Clerk's certification of this order.

The delayed application for leave to appeal is otherwise DENIED.

This Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 29 2009

Date

Sandra Schultz Mengel
Chief Clerk